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## Animals on Campus and in the Workplace

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# IOWA STATE UNIVERSITY

University Human Resources - University Counsel - Student Disability Resources

## **Animals on Campus and in the Workplace: Navigating the Changing Legal Landscape**



# Agenda

- Introduction
- Key laws and regulations
- Service Animals
- Emotional Support Animals (ESA)
- Animal Allergies

# Mental Health Crisis

- Approximately 62 million Americans, one in four adults, experience a mental health impairment in any year
- The number of people claiming that they have been discriminated against because of their mental disability has increased in recent years and now psychological disorders account for the second greatest number of disability claims (after muscular / skeletal)

# Rise at Universities/Colleges

- More acceptable to disclose a mental illness; therefore, more people are seeking out help
- With counseling and other supportive services, students/employees with mental health related issues may not have been able to attend college and be successful just a few years ago
- Return of veterans with disabilities
- The transition from attending high school and living at home with one's family to living on one's own involves many stresses

# Benefits of Animals

- Long history of research supports the positive influence on human functioning
- Special benefits relating to mental/psychiatric disorders
- Critics have raised concerns about “abusing the system” without legitimate need
- Risks associated with animals on campus (safety, allergies, management, etc.)

# Key animal categories

- Service Animals
  - Emotional Support Animals
    - Comfort / Companion
- Therapy animals
- Pets (distinguished)



# Disability Laws & Regs: Animals

- ADA / ADAAA
- Section 504, Rehabilitation Act
- Fair Housing Act (FHA)
- State laws (Civil Rights Act)



# Campus Examples

- At Palm Beach State College a student with various mental disorders began training her dog, a black Pomeranian, as a “psychiatric service animal.” Request denied; complaint filed with DOJ but agency took no action.
  - The court held that the student was an individual with a disability under the ADAAA and that dog qualified as a service animal.

# ADA Regulations on Service Animals

- WHO: individual with a disability
- WHERE: everywhere handler is allowed (with “safety” exceptions)
- WHAT: only dogs and miniature horses trained to perform tasks
- HOW to recognize: limited questions allowed



# DOJ Regulations

- If either the disability or the need for the service animal is obvious, no inquiries about either the animal or the disability may be made
- If either the disability or the need for the service animal is not obvious, **ONLY** two (2) inquiries may be made

# DOJ Regulations

- 1. Is the dog required because of a disability?**
- 2. What work or task has the dog been trained to perform?**

# Service Animal Work

- Examples of work/tasks:
  - Guiding
  - Alerting
  - Providing physical assistance
  - Providing psychiatric assistance

Not Covered: emotional support, well-being, comfort, companionship, security



Image Description: Sheba the black lab laying on a cement floor between two middle mounted chairs.

# Rules & Restrictions

- Animals can be banned from sterile facilities (food service, surgical facilities) and dangerous areas (chemical lab, swimming pools, etc.)
- Animal must be under control of owner at all times
- Must be housebroken
- Must be trained and not present danger
- UHR/SDR works with departments and employees if concerns arise regarding service animals in the workplace

# Student Disability Resources

- Engage in the interactive process.
- Encourage students to allow a disability coordinator to send a notice to their instructors every semester informing them that a service dog will be in their classroom.
- Connect instructors to ISU policies regarding animals on campus and their rights and responsibilities in maintaining a safe and conducive learning environment.
- Explore additional accommodations with student.

# Employment

## (Service Animals)

- Utilize standard reasonable accommodation analysis.
  - ADA is not explicit about requiring employers to allow guide dogs to accompany disabled employees in the workplace
  - But employers must make reasonable accommodations for employees with disabilities unless the accommodation would cause an undue hardship or present a direct threat to health and safety.



# Employment

## (Service Animals)

- Branson v. West. Employer argued undue burden / “logistical nightmare.” - The court dismissed the employer's arguments as unbelievable and unsupported primarily because the hospital already allowed Seeing Eye dogs. (N.D. Ill. 1999)
- Schultz v. Alticor/Amway Corp. court held that dog was not "necessary in carrying out the essential functions of his job." Schultz v. Alticor/Amway Corp., 177 F. Supp. 2d 674, 678 (W.D. Mich. 2001).

# Employment

## (Service Animals)

- McDonald v. Dept. of Environmental Quality, court found employer was responsible for installing non-stick floors for the benefit of employee's service dog. (2009)

# FHA Regs on ESA

- WHO: individual with a disability
- WHERE: housing only
- HOW to recognize: nexus with disability (but not individually trained tasks/work)
  - Can prohibit animals that are not legal on-campus generally: dangerous, wild, etc.
  - Prohibit based on suitability as well: size, needs of animal, etc

# The ADA – Emotional Support Animals (employment)

- Emotional Support Animals (ESA) are issues of the reasonable accommodation under Title I of the ADA
- Documentation from a health care provider may be required to support the need for an ESA in the workplace
- In order to be considered a reasonable accommodation, must perform a specific function or task, like a service animal

# Campus Examples

- In 2010, student at the University of Nebraska at Kearney requested that campus officials let her ESA, a four-pound miniature Pinscher named Butch, live with her in a university apartment.
- According to administrators, the student did not follow the university's psychological-documentation guidelines which asked for information regarding the student's treatment and prescribed medications and various other information.

# Campus Examples

- Kearney continued: DOJ filed suit alleging Fair Housing Act violation.
- Court found for student: “Particularly in the context of residential settings . . . there may be a legal obligation to permit the use of animals that do not qualify as service animals under the ADA, but nonetheless provide necessary emotional support to persons with disabilities”
- DOJ criticized KU for requiring “detailed disability information that goes beyond what is needed to review a request for accommodation

# ISU's ESA policy and procedure

- Public, transparent accommodation process
  - Published online and provided upon request in the SDR office
    - Contract for Housing
    - Register with SDR
    - Submit your DoR accommodation request form
    - Your request is reviewed

# The ADA – Emotional Support Animals

- In order to be considered a reasonable accommodation, must perform a specific function or task, like a service animal
- Exception – When an employee lives on campus



# ISU Policy – Employee ESAs on Campus

- **Permitted to reside with the employee, if the employee lives on campus, must complete documentation through UHR and DSO**
- **Generally not considered service animals under the ADA, and not permitted in the workplace**

# ISU Policy—Student ESA's on campus

- Allowed to reside with student in their housing assignment.
- Allowed in common areas of the student's housing assignment.
- Allowed in other students' rooms.
- Not allowed in classrooms, labs, libraries, offices, studio space, etc.
- Medical documentation is required.

# Student Disability Resources Role

- Evaluating medical documentation
  - Does this resident have a disability under the definition defined by the FHAA?
  - Identify the residents impairments and describe how they substantially limit a major life activity as compared to the general population.
  - Identify if the resident is using any measure to mitigate these limitations and their success.
  - Explain how an ESA is necessary for the resident to use and enjoy University Housing as compared to a person without a disability.
  - Identify any other equally effective accommodations.

# Department of Residence Role

- Formal request for accommodation
- Roommate notification
- Animals in residence agreement
  - ISU's animals on campus policy
  - Emergency Contact
  - Veterinary records and contact information
  - Photo

# Allergies

- Allergies, depending on severity, covered by disability laws
- Animals = among most common allergy
- Obligation = accommodate BOTH individuals



# Allergies Continued

- Strategies:
  - Timing (classes together, dining access, events)
  - Notice (access to schedules)
  - Cooperation (room assignments, memberships)
  - Dialog with both, focus on both

# Stories...

- Prior to policies
  - Legitimacy was challenged inconsistently
  - Communication was absent
  - No real established expectations
  - Very little demand
- After policies were in place...
  - There was fear of broader disharmony.
  - Emotional preparedness?

# Emotional Support Animals

Institution	Students living on campus	Emotional Support Animals	ESA to Student ratio
ISU	10,121	119	1:85
UNI	4142	67	1:61
Iowa	6363	17	1:374
Simpson	1342	9	1:149
Grandview	859	17	1:51
Wisconsin-Madison	8244	30	1:275
Nebraska-Lincoln	8124	80	1:102





**Questions about Employment and Animals**